United Nations A/HRC/38/NGO/71

General Assembly

Distr.: General
7 June 2018

English only

Human Rights Council
Thirty-eighth session
18 June-6 July 2018
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the International Human Rights Association of American Minorities (IHRAAM), a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.18-09273(E)
1809273

Please recycle

Violence Against Women - Asifa Innocence Ravaged in Indian Administered Kashmir

Introduction

The Declaration on the Elimination of Violence Against Women defines "violence against women" as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life." It has taken decades of struggle by the women's rights movement to persuade the international community to view gender-based violence against women as a human rights concern and not just as a private matter in which the State should not interfere.

In 1992, the CEDAW Committee in its General Recommendation No. 19, asserted that violence against women is a form of discrimination, directed towards a woman because she is a woman or that affects women disproportionately. This violence seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men.

The Vienna Declaration and Programme of Action recognized that the elimination of violence against women in public and private life is a human rights obligation.

The 1995 UN World Conference on Women held in Beijing reaffirmed the conclusions of the Vienna Conference, listing violence against women as one of the critical areas of concern. In 2017, the CEDAW Committee, marking 25th anniversary of its General Recommendation No. 19, further elaborated international standards on gender-based violence against women in its General Recommendation No. 35. In General Recommendation No. 35, the CEDAW Committee recognized that the prohibition of gender-based violence against women has evolved into a principle of customary international law, binding all States.

Framing gender-based violence against women as a human rights violation implies an important conceptual shift. It means recognizing that women are not exposed to violence by accident, or because of an in-born vulnerability. Instead, violence is the result of structural, deep-rooted discrimination which the state has an obligation to address. Preventing and addressing gender-based violence against women is therefore not a charitable act. It is a legal and moral obligation requiring legislative, administrative and institutional measures and reforms and the eradication of gender stereotypes which condone or perpetuate gender-based violence against women and underpin the structural inequality of women with men.

Asifa Bano – 8 Year Old Girl Case

A tragic and gruesome violence and murder occurred of a 8 year old girl in Indian Administered Kashmir.

8-year-old nomad girl Asifa Bano, daughter of Mohammed Yousaf Pujwala and Rafeeza Bano of Rasana in Hiranagar, Kathua had gone for grazing horses on 10th January 2018 at 12.30pm in a nearby forest. She was last seen alive by a local woman at 2.00pm on the same day. At 4.00pm the horses returned home alone without Asifa.

She was found a week later on 17th January 2018 from Hiranagar woods with visible torture marks on her body.

According to the Jammu & Kashmir police report, post mortem and charge-sheet, Asifa Bano was held **captive** for five days in a Hindu temple, forcibly **drugged** to keep her sedated but alive, **tortured**, **gang raped** and brutally **murdered**.

On 9th April 2018, charges under Sections 302, 376, 201 and 120-B of the Ranbir Penal Code were levied on the accused who include police officers, identified as the following:

1. 60-year-old Sanji Ram, a retired government official, is the main conspirator who incited his juvenile nephew to abduct eight-year-old Asifa. Mr Ram was in-charge of the Hindu temple where Asifa was held hostage and gang raped.

2. Sanji Ram's nephew, 15, (19 according to a DNA report, said the charge-sheet) is a school dropout who abducted, raped and strangulated the girl before bludgeoning her face with a stone.

3. Parvesh Kumar, is a friend of the juvenile nephew of Sanji Ram, who helped execute the plan and repeatedly raped the girl.

4. Vishal Jangotra is Sanji Ram's son, who studies in Meerut. He raped the girl with the juvenile who called Vishal and asked him to return to Kathua "in case he wanted to satisfy his lust".

5. Deepak Khajuria is a special police officer who wanted to rape Asifa one more time before she was killed.

6. Surinder Kumar is a Police Special Officer, who witnesses say they saw at the crime scene.

7. Police Sub-Inspector Anand Dutta and Police Head Constable Tilak Raj tried to scuttle the probe by not collecting vital evidence and washed Asifa's dress, attempting to eliminate DNA residue to help the accused.

Asifa's ordeal began on 4th January 2018, when Sanji Ram provoked his nephew to attack the nomadic Bakarwal community.

On 7th January, Sanji Ram told his nephew, a juvenile, to kidnap the daughter of Mohammed Yousaf Pujwala, Asifa, who often went to the forest behind Ram's house to graze her horses.

On 8th January 2018, the juvenile nephew of Sanji Ram shared Sanji Ram's plan of the kidnap of eight-year-old Asifa with his friend Parvez Kumar.

On 9th January 2018, the juvenile and Parvesh Kumar purchased sedative drugs to be used on Asifa.

On 10th January 2018, the juvenile saw the girl enquiring about her horses with a local lady. The juvenile approached Asifa and told her he had seen them in the jungle. He led Asifa towards the jungle, but sensing trouble, Asifa tried to flee. The juvenile stopped her by catching hold of her neck, covering her mouth with one of his hands and pushed her to the ground. Parvesh Kumar held her legs and the juvenile forcibly administered the sedatives one by one to Asifa. Asifa fell unconscious and was raped by the juvenile, followed by Parvesh Kumar attempting to rape her, but was unable to do so. They then took Asifa inside Devisthan Temple and placed her under the table over two plastic mats, covering her with cotton thread mats. Thereafter, both the juvenile and Parvesh Kumar left the temple after locking it.

On 11th January 2018, Asifa's parents went to the Devisthan temple and enquired from the caretaker, Sanji Ram, about the whereabouts of their missing daughter. Sanji Ram denied any knowledge.

On 12th January 2018, Vishal Jangotra reached Rasana from Meerut at 06:00 a.m. At about 8:30 a.m. the juvenile returned to Devisthan temple and administered three more sedative tablets to Asifa while she was unconscious and with an empty stomach. Later that day, the

Police along with the Bakarwal community began searching for Asifa while Deepak Khajuria went to the house of Sanji Ram with another police official named Iftikar Wani. Deepak Khajuria advised the juvenile to ensure regular administering of sedatives to Asifa on time. During the investigation, it transpired that Sanji Ram had already taken the accused police officials into confidence and settled a deal with them to take care of things which would ensure success of the conspired plan.

On 13th January 2018 at 8.30am, the juvenile, Vishal Jangotra and Sanji Ram and Parvesh Kumar arrived at Devisthan temple. Sanji Ram left Devisthan temple from the rear gate to meet Special Officer Deepak Khajuria who was waiting for him. During that time, Vishal Jangotra raped the sedated Asifa inside the temple, followed by the juvenile raping Asifa in presence of Parvesh Kumar.

After distributing religious food to relatives in the evening, the juvenile informed his uncle Sanji Ram that he and Vishal Jangotra had committed gang rape with Asifa inside Devisthan temple. Sanji Ram instructed the juvenile that it was time to kill Asifa and achieve the ultimate goal of criminal conspiracy hatched among the accused. On the direction of Sanji Ram at Devisthan temple, the Parvesh Kumar, Vishal Jangotra and the juvenile removed Asifa from Devisthan temple and took her to a nearby canal situated in front of Devisthan temple, where Deepak Khajuria met them.

After committing the barbaric act of rape on Asifa, Deepak Khajuria kept her neck on his left thigh and started applying force with his hands on her neck in order to kill her. As Deepak Khajuria was unsuccessful in killing her, the juvenile killed her by pressing his knees against her back and strangulated Asifa with her own scarf. The juvenile, in order to make sure that Asifa was dead, hit her twice on head with a large stone. As per the conspired plan, the dead body was to be transported and disposed of in a canal at Hiranagar, however, as a vehicle could not be arranged in time, the accused decided to dump the body at Devisthan temple.

On 15th January 2018, Sanji Ram told his nephew the juvenile and his son Vishal Jangotra to throw Asifa's dead body in the jungle as it was no longer safe to keep her inside Devisthan temple and worshipers were to visit the temple the following day for a Hindu religious festival which was to be performed by Sanji Ram himself.

Eventually, Asifa's dead body was thrown inside the jungle while Vishal Jangotra locked the temple and guarded the outside bushes. After throwing the body, they both returned to their respective homes.

On 17th January 2018 Asifa's dead body was recovered on the basis of information provided by Jagdish Raj who had discovered Asifa's dead body during the search of his missing sheep in the nearby forest. The dead body of Asifa was taken into custody by police for conducting an autopsy. The post-mortem of Asifa was conducted by a team of doctors at District Hospital Kathua on the same day at 2.30pm.

On 12th January 2018, Mohammed Yousaf Pujwala, father of eight-year-old Asifa Bano lodged a complaint in Hiranagar Police Station regarding his missing daughter. On this report case, FIR No: 10/2018U/S363RPC was registered in Hiranagar Police Station.

On 17th January 2018, the dead body of Asifa Bano was found by locals and taken immediately into custody to conduct an autopsy. The post mortem was performed in District Hospital Kathua and the report concluded that Asifa Bano was subjected to torture, rape and murder.

In pursuance to Police Headquarter Order No: 374 dated 22nd January 2018, the investigation of the case was transferred to Crime Branch and Crime Headquarters, Jammu and Kashmir.

On 9th April 2018, Crime Branch officials were physically stopped by the Bar Association of Jammu along with two ministers from the Hindu nationalist Bhartiya Janata Party (BJP), despite massive police presence, from entering the court of the Chief Judicial Magistrate in Jammu and Kashmir's Kathua district and filing a charge sheet into the gang rape and murder of Asifa Bano

On 19th April 2018, the Supreme Court condemned the actions of the Bar Association of Jammu calling their actions "wrong", observing that the lawyers had "no right to strike and obstruct" the Crime Branch from submitting the charge sheet to the court and producing the accused.

The case has become a politically driven issue and therefore there is a real possibility that Asifa Bano's case will not commence. The lawyer representing Asifa Bano and her family has therefore requested the case be moved to New Delhi, however, the Supreme Court as of now has not given the permission.

The UN Human Rights Council, its relevant mandates and the High Commissioner for Human Rights are indeed to take note of this "Asifa Innocence Ravaged" and ensure justice is delivered and reparation realized.

United Nations A/HRC/38/NGO/72

General Assembly

Distr.: General
7 June 2018

English only

Human Rights Council
Thirty-eighth session
18 June-6 July 2018
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Jammu and Kashmir Council for Human Rights (JKCHR), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.18-09274(E)
1809274

Please recycle

Human Rights situation in Indian administered Kashmir

Human Rights situation in the Indian administered part of Jammu and Kashmir has continued to occupy the time and interest of this Council. UN Security Council has listed these rights in its resolution of 21 April 1948. A special mention has been made of their rights and dignity, security and self-determination.

Outside this Council the gross and systematic violation of human rights in Indian administered part of Kashmir has been recently raised in the British and European Parliament. On 14 December 2017 The All Parties Parliamentary Group on Kashmir (APPG) in the British Parliament, chaired by Chris Leslie Member of Parliament, arranged an oral hearing on the human rights situation. Oral and written testimonies were received by the panel.

Human Rights Council needs to take a special note that on 7 May 2018 Indian security forces killed 32 year old Dr Muhammad Rafi Bhat an assistant professor in the Sociology Department of Kashmir University. He went missing on 4th May and was killed within 40 hours. Four other Kashmiri youth, Saddam Paddar, Bilal Ahmad Mohand, Adil Ahmad Malik, and Tawseef Sheikh were also killed with him. Indian security forces have profiled the Kashmiri youth and these youth were designated as category A++. The circumstances of disappearance and death of a young university teacher speak for themselves. A university teacher missing for 40 hours could not be transformed into a category A++ militant challenging the Indian rule in Kashmir.

There is a challenge to the status of the Indian security forces in Kashmir. It has been identified at the 241st meeting of the UN Security Council held on 5 February 1948. Indian army was allegedly required in Jammu and Kashmir in relation to a 'grave situation'. A cease-fire was brokered by UN between various elements, including India and Pakistan on 01 January 1949 and the 'grave situation' was reversed. In addition The State of Jammu and Kashmir is divided into three administrations. People are forced to live as divided and distributed people in these three administrations. A UN brokered cease fire line temporarily divides the land and separates the families. Life, property and honour was more secure on 26 October 1947, than it has been over some period in the recent past in the Indian administered Kashmir.

That there will be an ongoing challenge to these security forces has been pointed out by the United Kingdom at the 241st meeting of the Security Council. UK representative Noel Baker stated that, "It is my conviction that raids and incidents will continue to occur until the question of Kashmir has been disposed of by the Security Council…And, so long as fear dominates the minds of the peoples in that area of the Punjab and of Kashmir, incidents will continue and the situation will remain extremely grave."

Human Rights Council has to take into account that UN Security Council has recognised six interest groups, namely, Pakistan, insurgents, tribesmen, Government of India, other inhabitants of Jammu and Kashmir and the outside world. Insurgent are indigenous and are duly recognised as an interest group. Noel Baker of the United Kingdom stated, "This plebiscite must inspire confidence in everybody, including those who are now fighting. We have all stated it before. The representative of India said at our 239th meeting the day before yesterday that the two parties interested in the Kashmir question are Pakistan and the insurgents in Kashmir. Therefore, we have to satisfy these two parties. What the Security Council does must seem fair to these two parties. It must also seem fair to The Government of Pakistan, to the insurgents, to the tribesmen, to the Government of India, to the other inhabitants of Jammu and Kashmir, and to the outside world. That is why I arrived at the same conclusion as the other members of the Security Council who stated that impartial, interim administrative arrangements must be made. If we are looking into the past for precedents, I may say that I lived through two international crises; one over Upper Silesia and one over the Saar. I think that the arrangements made for those crises between the two wars will certainly be in agreement with proposals which have been made here."

Profiling and killing of Kashmiri youth by an army temporarily admitted into a part of the State and under three UN restraints, is a war crime. Noel Baker had made a serious point in regard to the killing of 'insurgents' and said, "We want a real total stoppage now, without further bloodshed, without more killing of the insurgents, whose votes, after all, we want in the plebiscite when it comes, our aim being to secure a responsible government, as the representative of

India has stated. We must get such a scheme. The question is how to do it." Indian security forces cannot profile and kill under any excuse.

"The question is how to do it", raised by UK representative Mr. Noel Baker has been appropriately answered by another UK representative Sir Gladwyn Jebb at the 606th meeting of the UN Security Council. He stated that "Efforts of the people of Kashmir on both sides of the cease fire line and indeed, of the peoples of India and Pakistan also, would be concentrated on the task of organizing the methods and procedures to enable the people of Jammu and Kashmir to express freely their wishes..."

This Council has heard enough on Kashmir and it has a fair view of the situation as it exists in the Indian administered part of Kashmir. The Council could work out or recommend to the General Assembly or Security Council, a mechanism which would involve and engage Kashmiris living on both sides of cease fire line, the five generations of Kashmiris living in Pakistan, Kashmiri diaspora and the people of India and Pakistan, in the task of organizing the methods and procedures to enable the people of Jammu and Kashmir to express freely their wishes..."

United Nations has finalised a template to secure rights and dignity, security and self-determination of the people of Jammu and Kashmir. The most urgent step is to demilitarise the State. India and Pakistan have agreed to a demilitarization. The Council need to appoint a sub-committee or a representative to consider the jurisprudence of UN Resolutions on Kashmir. Mrs Pandit the Indian representative as on 8 December 1952 at the 608th meeting of the UN Security Council is on record to have stated that, "after careful examination and assessment by its experts, the Government of India had come to the conclusion that a minimum force of 28,000 was required to carry out its responsibilities. However, on complete disbandment and disarmament of the Azad Kashmir forces, and as a further contribution towards a settlement, the Government of India is prepared to effect a further reduction of 7,000 to a figure of 21,000 which is absolute and irreducible minimum. I should like to emphasise that this figure, which includes the former State armed forces, represents less than one-sixth of the Indian forces at the time of the cease-fire. It should further be emphasised that this force will have no supporting arms such as armour or artillery."

UN Representative for India and Pakistan has proposed between 3,000 and 6,000 armed forces to remain on the Pakistani side of cease fire line and between 12,000 and 18,000 armed forces to remain on the Indian side of cease fire line. The justification given by India for an increased number of armed forces was to "safe-guard law and order, the integrity of the cease-fire-line and security of the territory on each side of that line." The argument on the character and number of armed forces advanced in 1952, has lost its appreciation and needs to be re-appreciated in 2018. Indian argument of keeping an increased number of armed forces on its side of the cease fire line has not been fully entertained by the United Nations.

United Kingdom has defended an equitable demilitarization. UK representative at the 606 meeting of the UN Security Council on 6 November 1952 in para 27 has found the Indian argument, as a condition not compatible with the idea of a 'free plebiscite'. Sir Gladwyn Jebb said, "I have mentioned earlier that at no stage should demilitarization involve a threat to the cease-fire agreement. This would mean that the forces of each side of the cease-fire line should be, broadly speaking of the same kind. I should make. it dear that the United Kingdom Government has never thought that the proposal to limit the forces on the Pakistan side of the cease-fire line to an armed civil force while leaving a military force on the other side of the cease-fire line was consistent with a really free plebiscite. I hope that representatives will join me in urging that the parties should resolve any differences they may still have on this point in the way which I have suggested."

The Council needs to take stock of the evidence presented since 1990 to date against the erring Indian securing forces and take a lead step, to defend the rights and dignity, security and self-determination of the people living under Indian administration.

United Nations A/HRC/38/NGO/73

General Assembly

Distr.: General
7 June 2018

English only

Human Rights Council
Thirty-eighth session
18 June-6 July 2018
Agenda item 6
Universal Periodic Review

Written statement* submitted by Associazione Comunita Papa Giovanni XXIII, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.18-09275(E)
1809275

Please recycle

UPR France

APG23 has been present in France since 2010. At the moment, it runs two Family Homes, which are welcoming family-like structures, in the Occitanie region, department 65 Hautes Pyrenees. In the last years, the Association has welcomed around 30 persons with disabilities (in its structures) for different reasons and for different periods of time. APG 23 has built networks with national and local agencies such as OCH (Office Chrétien des personnes Handicapées), APF (Association des Paralysés de France), AIGUE VIVE, MDPH (Maison départemental des personnes handicapées), Défenseur des droits, Santuario Notre Dame de Lourdes, CESDDA (Centre d'Education Spécialisée pour Dysphasiques et Déficients Auditifs) in order to establish mutual collaboration, to face difficulties together and to share solutions. Through these networks, we came in contact and helped more than 200 people with disabilities.

Our members and volunteers in France collected the information and the data on the situation of persons with disabilities through direct interviews, questionnaires proposed to the stakeholders, monitoring activities, public documents and research material.

We appreciated the efforts made by France in this issue. From 2005, when the national law for persons with disabilities came into force, there have been many changes in the country. Many tools have been created to promote occupation, education and social inclusion for persons with disabilities. In 2013, within the Inter Ministerial Committee for disability, the government decided to include a specific section on disability in every new law.
At the National Conference on Disability of the 14th December 2014, an effort was made to promote an inclusive society, regarding issues pertaining to education and occupation. We also welcomed the fact that in June 2016 the Ministry of Social Affairs and Health, together with the Ministry of the Family and the Rights of the Children and Women, has issued ministerial instructions (Instruction n° DGCS/3B/2016/207 du 23 juin 2016) for the transfer and inclusion of the didactic units, previously located in the premises of the medical social services (ESMS) for the disabled children, inside the ordinary schools. These measures in favour of a more inclusive school, already announced by the President of the Republic during the National Conference on Disabilities (CNH) on the 11th December 2014, have been also confirmed several times in the recent CNH of the 19th May 2016.

Likewise, it is positive that the new Labour Act No. 2016-1088 of 8 August 2016 introduces accompanied employment for workers with disabilities. Its implementation also includes support and guidance from the employer. The legislation has come into force only on the 1st January 2017 and its impact evaluation is premature.

Anyhow, we notice that huge inequalities in income and work policies still persist. In fact, persons with disabilities have access to poorly qualified and less paid jobs, mainly part-time jobs.
We believe that valuing a person means allowing them to make a path that leads to their self-determination and to acquire capacities to independently choose a project of life. Valuing a person with disability means just this, bearing in mind what their peculiar characteristics are. On the other hand, it is necessary an environment in which they can choose among the different possibilities that may be adequate to their desires and attitudes. The data collected show us that often only repetitive jobs, which do not valorise in any way the person, are proposed to persons with severe disabilities.

In the education field, the ambitious project of promoting the cooperation between the social-medical sector and the national education system for strengthening inclusive education is failing to identify the direct beneficiaries. There is also a general lack of information regarding the real possibilities that a disabled person could benefit from.

Finally, regarding social inclusion, even if there has been an increase in the number of laws and accessibility to work and education, the coverage of the services still leaves out a lot of adults and minors with disabilities and is not uniform in the different regions of the country. Moreover, it is not possible to affirm that there has been a qualitative development that recognizes equal dignity to the person with disability.
The residential institutions such as MAS, FAM (Maisons d'Accueil Specialisées e Foyers d'Accueil Médicalisés) are structures that take charge of the protection and care of the persons with disabilities in a totalizing manner, but do not involve any accompaniment towards social integration. The high professionalism of the service seems to be directly linked to the level of exclusion of the person that practically lives as a secluded person. The home-based care

associations are limited at guaranteeing assistance to people at home, whenever their physical and mental capacities are challenged. Such associations have assistance rather than a development approach.

Consequently, we would like to suggest some measures in order to provide a better fulfilment for people with disability in France:

- It is necessary and urgent to make a greater effort for training, sensitization and education on the culture of diversity and disability with the aim to promote a real culture of equality, tolerance and reciprocal respect; prevent and fight the discrimination towards the disabled children and adults in all the sectors of the society and in particular in the public sector; and recognize in real terms, and not just formally, the equal dignity of persons with disabilities at every level of social life.

- In the educational context it is necessary a cultural revolution, by shifting from quantitative development to qualitative development in order to adapt and adjust the educational activity to the real needs of the disabled children.

- Even if there has been some progress, there is the need to proceed very fast in including in the ordinary schools the too many children that are still excluded. All the minors in schools should be granted adequate educational support.

- To introduce new procedures for the validation of the special teachers' competencies to guarantee an effective acquisition of the required specific formation.

- To plan more punctual and systematic statistical research and collection of data concerning the number of disabled in the country, the total rates of schooling, the quantity and quality of the services and educational support offered. Such data should also be disaggregated for different types of disability (mental, physical, etc.).

- In every attempt to adapt and apply new legislations on disability in the different contexts (educational, social and working), it is urgent to give greater attention to children and adults with intellective disability since they are usually the most penalized.

- To adopt every measure, even legislative, for guaranteeing in every social or medical residential structure the valorisation and development of the autonomy and self-determination of persons with disabilities as well as the transparency of the offered services.

- To strengthen the interventions in the field of labour integration; business policies must put at the centre the development of the working dignity of the person with disabilities.

- To get rid of the disparities and differences among regions and provinces in terms of architectural barriers, school treatment and scholastic support, home support and assistance, working inclusion possibilities and compensation in order to guarantee a uniform coverage.

- To support and promote the adoption and fostering of disabled children in families and family-like structures. To adopt a new national legislation that forbids the placing of minors with disability in another type of institution (unless in the case of extreme ratio).

- To protect the life of disabled children from conception. All the possible maternal support for the protection of the life of the disabled child must be adopted even during intrauterine life.

In conclusion, we hope that our work, and in general this UPR session, will be fruitful and will help the French government to have a better understanding of the situation of people living with disability in order to continue the efforts made by France about this particular topic.